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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,633	10/19/2001	James M. Kain	20341-68796	6018

23643 7590 12/04/2002

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INDIANAPOLIS, IN 46204

EXAMINER

GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/032,633

Applicant(s)

KAIN, JAMES M.

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,11-14 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-5,8-10,15 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-7, 11-14, and 16 as best understood are rejected under 35

U.S.C. 102(b) as being anticipated by Rasnick (5,217,277). Rasnick discloses the use of a juvenile seat (10) comprising a base having a front, a rear, (figure 2) opposite sides (12) and a seating surface between the sides to receive an occupant, the base having at least one of the sides, an upstanding side wall (14) having a cavity (18) facing outwardly away from the seating surface; a cup holder (34) comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly. In regards to claim 6, a juvenile seat comprising a base including a front, rear, and opposite sides, the base being formed to include a cavity, a cup holder comprising a shell having an inner surface providing a cup retainer and outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and an opened position wherein the cup retainer extends from the base and faces upwardly. In regards to claim 7, the base includes an upstanding sidewall having an inwardly facing wall and an outwardly

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facing wall, and the cavity is formed in the outwardly facing wall. In regards to claim 11, a juvenile seat comprising a front, opposite sides, a seating surface between the sides, and a back; a cup holder having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer. In regards to claim 12, one side comprises a generally inwardly facing wall and a generally outwardly facing wall, the outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position. In regards to claim 13, the shell includes an outer surface and an inner surface providing the cup retainer, the cup retainer being positioned in the cavity when the cup holder is in the closed position. In regards to claim 14, the outwardly facing wall is convex, and the outer surface is continuous with the outwardly facing wall when the cup holder is in the closed position. In regards to claim 16, the shell includes an upper portion and a lower portion, and when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position (see figure 3&4).

Claims 1, 6-7, 11-14, and 16 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (4,719,764). Cook discloses the use of a juvenile seat (10) comprising a base (20) having a front (14), a rear (figure 4), opposite sides (18) and a seating surface (12) between the sides to receive an occupant, the base having at least one of the sides, an upstanding side wall (36) having a cavity (40) facing outwardly away from the seating surface; a cup holder (46) comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder

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being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly. In regards to claim 6, a juvenile seat comprising a base including a front, rear, and opposite sides, the base being formed to include a cavity, a cup holder comprising a shell having an inner surface providing a cup retainer and outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and an opened position wherein the cup retainer extends from the base and faces upwardly. In regards to claim 7, the base includes an upstanding sidewall having an inwardly facing wall and an outwardly facing wall, and the cavity is formed in the outwardly facing wall. In regards to claim 11, a juvenile seat comprising a front, opposite sides, a seating surface between the sides, and a back; a cup holder having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer. In regards to claim 12, one side comprises a generally inwardly facing wall and a generally outwardly facing wall, the outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position. In regards to claim 13, the shell includes an outer surface and an inner surface providing the cup retainer, the cup retainer being positioned in the cavity (40) when the cup holder is in the closed position. In regards to claim 14, the outwardly facing wall is convex, and the outer surface is continuous with the outwardly facing wall when the cup holder is in the closed position. In regards to claim 16, the shell includes an upper portion and a lower

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portion (36), and when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position (see figure 3).

Allowable Subject Matter

Claims 2-5, 8-10, 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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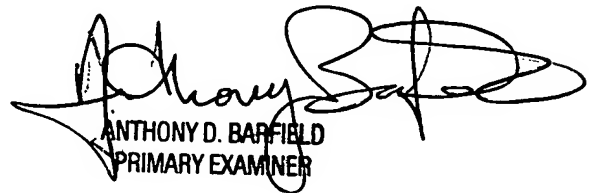
Conclusi n

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to juvenile seat cup holder: U.S Pat. No. 5,685,604; 5,857,633; 6,467,839; 6,193, 312; 5,997, 082; 4,191,420.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

EG
December 2, 2002


ANTHONY D. BARFIELD
PRIMARY EXAMINER